

104TH CONGRESS
2D SESSION

H. R. 4098

To enhance the administrative authority of the president of Haskell Indian Nations University, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 1996

Mrs. MEYERS of Kansas introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To enhance the administrative authority of the president of Haskell Indian Nations University, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Haskell Indian Nations

5 University Administrative Systems Act of 1996”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1 (1) the provision of culturally sensitive curricula
2 for higher education programs at Haskell Indian
3 Nations University is consistent with the commit-
4 ment of the Federal Government to the fulfillment
5 of treaty obligations to Indian tribes through the
6 principle of self-determination and the use of Fed-
7 eral resources; and

8 (2) giving a greater degree of autonomy to Has-
9 kell Indian Nations University, while maintaining it
10 as an integral part of the Bureau of Indian Affairs,
11 will facilitate the transition of the university to a 4-
12 year university.

13 **SEC. 3. DEFINITIONS.**

14 For purposes of this Act—

15 (1) UNIVERSITY.—The term “Haskell Indian
16 Nations University” or “university” means the Has-
17 kell Indian Nations University, located in Lawrence,
18 Kansas.

19 (2) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior.

21 **SEC. 4. PERSONNEL MANAGEMENT.**

22 (a) INAPPLICABILITY OF CERTAIN CIVIL SERVICE
23 LAWS.—Chapters 51, 53, and 63 of title 5, United States
24 Code (relating to classification, pay, and leave, respec-
25 tively) and the provisions of such title relating to the ap-

1 pointment, performance evaluation, promotion, and re-
2 moval of civil service employees shall not apply to appli-
3 cants for employment with, employees of, or positions in
4 or under the university.

5 (b) ALTERNATIVE PERSONNEL MANAGEMENT PRO-
6 VISIONS.—

7 (1) IN GENERAL.—The president of the univer-
8 sity shall by regulation prescribe such personnel
9 management provisions as may be necessary, in
10 order to ensure the effective administration of the
11 university, to replace the provisions of law that are
12 inapplicable with respect to the university by reason
13 of subsection (a).

14 (2) PROCEDURAL REQUIREMENTS.—Regula-
15 tions under this subsection—

16 (A) shall be prescribed in consultation with
17 the board of regents of the university and other
18 appropriate representative bodies;

19 (B) shall be subject to the requirements of
20 subsections (b) through (e) of section 553 of
21 title 5, United States Code; and

22 (C) shall not take effect except with the
23 prior written approval of the Secretary.

24 (c) SPECIFIC SUBSTANTIVE REQUIREMENTS.—

25 Under the regulations—

1 (1) no rate of basic pay may, at any time, ex-
2 ceed—

3 (A) in the case of an employee who would
4 otherwise be subject to the General Schedule,
5 the maximum rate of basic pay then currently
6 payable for grade GS-15 of the General Sched-
7 ule (including any amount payable under sec-
8 tion 5304 of title 5, United States Code, or
9 other similar authority for the locality involved);

10 or

11 (B) in the case of an employee who would
12 otherwise be subject to subchapter IV of chap-
13 ter 53 of title 5, United States Code (relating
14 to prevailing rate systems), the maximum rate
15 of basic pay which (but for this section) would
16 then otherwise be currently payable under the
17 wage schedule covering such employee;

18 (2) the limitation under section 5307 of title 5,
19 United States Code (relating to limitation on certain
20 payments) shall apply, subject to such definitional
21 and other modifications as may be necessary in the
22 context of the alternative personnel management
23 provisions established under this section;

24 (3) procedures shall be established for the rapid
25 and equitable resolution of grievances;

1 (4) no university employee may be discharged
2 without notice of the reasons therefor and oppor-
3 tunity for a hearing under procedures that comport
4 with the requirements of due process, except that
5 this paragraph shall not apply in the case of an em-
6 ployee serving a probationary or trial period under
7 an initial appointment; and

8 (5) university employees serving for a period
9 specified in or determinable under an employment
10 agreement shall, except as otherwise provided in the
11 agreement, be notified at least 30 days before the
12 end of such period as to whether their employment
13 agreement will be renewed.

14 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
15 tion shall be considered to affect—

16 (1) the applicability of any provision of law pro-
17 viding for—

- 18 (A) equal employment opportunity;
19 (B) Indian preference; or
20 (C) veterans' preference; or

21 (2) the eligibility of any individual to partici-
22 pate in any retirement system, any program under
23 which any health insurance or life insurance is af-
24 fored, or any program under which unemployment

1 benefits are afforded, with respect to Federal em-
2 ployees.

3 (e) LABOR-MANAGEMENT PROVISIONS.—

4 (1) COLLECTIVE-BARGAINING AGREEMENTS.—
5 Any collective-bargaining agreement in effect on the
6 day before the effective date specified under sub-
7 section (f)(1) shall continue to be recognized by the
8 university until altered or amended pursuant to law.

9 (2) EXCLUSIVE REPRESENTATIVE.—Nothing in
10 this Act shall affect the right of any labor organiza-
11 tion to be accorded (or to continue to be accorded)
12 recognition as the exclusive representative of any
13 unit of university employees.

14 (3) OTHER PROVISIONS.—Matters made subject
15 to regulation under this section shall not be subject
16 to collective bargaining, except in the case of any
17 matter under chapter 63 of title 5, United States
18 Code (relating to leave).

19 (f) EFFECTIVE DATE.—

20 (1) ALTERNATIVE PERSONNEL MANAGEMENT
21 PROVISIONS.—The alternative personnel manage-
22 ment provisions under this section shall take effect
23 on such date as may be specified in the regulations,
24 except that in no event shall the date specified be

1 later than 1 year after the date of the enactment of
2 this Act.

3 (2) PROVISIONS MADE INAPPLICABLE BY THIS
4 SECTION.—Subsection (a) shall take effect as of the
5 date specified under paragraph (1).

6 (g) APPLICABILITY.—

7 (1) IN GENERAL.—Except as otherwise pro-
8 vided in this subsection, the alternative personnel
9 management provisions under this section shall
10 apply with respect to all applicants for employment
11 with, all employees of, and all positions in or under
12 the university.

13 (2) CURRENT EMPLOYEES NOT COVERED EX-
14 CEPT PURSUANT TO A VOLUNTARY ELECTION.—

15 (A) IN GENERAL.—A university employee
16 serving on the day before the effective date
17 specified under subsection (f)(1) shall not be
18 subject to the alternative personnel manage-
19 ment provisions under this section (and shall
20 instead, for all purposes, be treated in the same
21 way as if this section had not been enacted,
22 notwithstanding subsection (a)) unless, before
23 the end of the 5-year period beginning on such
24 effective date, such employee elects to be cov-
25 ered by such provisions.

(B) PROCEDURES.—An election under this paragraph shall be made in such form and in such manner as may be required under the regulations, and shall be irrevocable.

(3) TRANSITION PROVISIONS.—

(A) PROVISIONS RELATING TO ANNUAL
AND SICK LEAVE.—Any individual who—

(i) makes an election under paragraph (2), or

(ii) on or after the effective date specified under subsection (f)(1), is transferred, promoted, or reappointed, without a break in service of 3 days or longer, to a university position from a non-university position with the Federal Government or the government of the District of Columbia,

shall be credited, for the purpose of the leave system provided under regulations prescribed under this section, with the annual and sick leave to such individual's credit immediately before the effective date of such election, transfer, promotion, or reappointment, as the case may be.

(B) LIQUIDATION OF REMAINING LEAVE
UPON TERMINATION.—

(i) ANNUAL LEAVE.—Upon termination of employment with the university, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with section 5551(a) and section 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed under this section shall not be so liquidated.

(ii) SICK LEAVE.—Upon termination of employment with the university, any sick leave remaining to the credit of an individual within the purview of this section shall be creditable for civil service retirement purposes in accordance with section 8339(m) of title 5, United States Code, except that leave earned or accrued under regulations prescribed under this section shall not be so creditable.

(C) TRANSFER OF REMAINING LEAVE UPON TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the case of any university employee

1 who is transferred, promoted, or reappointed,
2 without a break in service of 3 days or longer,
3 to a position in the Federal Government (or the
4 government of the District of Columbia) under
5 a different leave system, any remaining leave to
6 the credit of that individual earned or credited
7 under the regulations prescribed under this sec-
8 tion shall be transferred to such individual's
9 credit in the employing agency on an adjusted
10 basis in accordance with regulations which shall
11 be prescribed by the Office of Personnel Man-
12 agement.

13 (4) WORK-STUDY.—Nothing in this section
14 shall be considered to apply with respect to a work-
15 study student, as defined by the president of the
16 university in writing.

17 **SEC. 5. DELEGATION OF PROCUREMENT AUTHORITY.**

18 The Secretary shall, to the maximum extent consist-
19 ent with applicable law and subject to the availability of
20 appropriations therefor, delegate to the president of the
21 university procurement and contracting authority with re-
22 spect to the conduct of the administrative functions of the
23 university.

1 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated for fiscal
3 year 1997, and for each fiscal year thereafter—

4 (1) the amount of funds made available by ap-
5 propriations as operations funding for the adminis-
6 tration of the university for fiscal year 1996; and

7 (2) such additional sums as may be necessary
8 for the operation of the university pursuant to this
9 Act.

